

11

PETITION UNDER 28 U.S.C. § 2254
FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY
United States District Court District
Eastern District of Michigan

Name (under which you were convicted): Jermial Ali Redding

Docket or Case No.: 2013-003882-01-FC

Place of Confinement:

Chippewa Correctional Facility

4269 West M-80

Kincheloe, Michigan 49784

Prisoner No.: 659495

Case:2:19-cv-13599

Judge: Parker, Linda V.

MJ: Grand, David R.

Filed: 12-06-2019 At 03:01 PM

HC JERMIAL ALI REDDING V CONNIE HORTON (LG)

Jermial Ali Redding

Petitioner

(The name under which you were convicted)

Connie Horton

Respondent

(Person having custody of petitioner)

The Attorney General of the State of Michigan: Dana Nessel

PETITION

(a) Name and location of court that entered the judgment of conviction you are challenging: 3RD Judicial Circuit Court, Wayne County

1441 St. Antoine St.

Detroit, Michigan 48226

(b) Docket or case number (if you know): 2013-003882-01-FC

2. (a) Date of judgment of conviction (if you know): 10/17/2013

(b) Date of sentencing: 11/01/2013

3. Length of sentence: Count One (1)- Robbery – Armed- 15 Years to 30 Years,
Count Two (2)- Weapons - Firearms - Possession By Felon- 2 Years to 10 Years,
Count Three (3)- Weapons - Carrying Concealed- 2 Years to 10 Years,
Count Four (4)- Weapons Felony Firearm- 2 Years, (served consecutive to counts 1 through 3.)

4. In this case, were you convicted on more than one count or of more than one crime?

Yes No

5. Identify all crimes of which you were convicted and sentenced in this case:

Robbery – Armed-

Weapons - Firearms - Possession By Felon

Weapons - Carrying Concealed

Weapons Felony Firearm

6. (a) What was your plea? (Check one)

Not guilty

Nolo contendere (no contest)

Guilty

Insanity plea

(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

(c) If you went to trial, what kind of trial did you have? (Check one)

Jury Judge only

7. Did you testify at a pretrial hearing, trial, or post-trial hearing?

Yes No

8. Did you appeal from the judgment of conviction?

Yes No

9. If you did appeal, answer the following:

(a) Name of court: **Michigan Court of Appeals**

(b) Docket or case number (if you know): **319255**

336896(After Remand)

(c) Result: **Denied Relief (BOTH TIMES)**

(d) Date of result (if you know):

March 17, 2015

April 10, 2018

(e) Citation to the case (if you know):

People v. Redding, 2015 Mich. App. LEXIS 531

People v. Redding, 2018 Mich. App. LEXIS 1298

(f) Grounds raised: Four Issues Presented (See Below)

ISSUE I:

MUST APPELLANTS CARRYING A CONCEALED WEAPON, FELON IN POSSESSION AND FELONY FIREARM CONVICTIONS BE REVERSED WHERE THE PROSECUTION FAILED TO PRESENT SUFFICIENT EVIDENCE TO PROVE THOSE CHARGES BEYOND A REASONABLE DOUBT

ISSUE II:

WHETHER THE TRIAL COURT REVERSIBLY ERRED, IN VIOLATION OF APPELLANT'S CONSTITUTIONAL RIGHTS TO DUE PROCESS, CONFRONTATION AND FAIR TRIAL, BY DENYING A MISTRIAL WHERE THE PROSECUTION REMOVED A COMPLAINING WITNESS FROM THEIR ENDORSED WITNESS LIST WITHOUT LEAVE OF THE COURT BUT DISCUSSED THAT WITNESS' ALLEGEDLY INCRIMINATING TESTIMONY IN OPENING STATEMENTS

ISSUE III:

WAS APPELLANT DENIED A FAIR TRIAL, THE RIGHT TO CONFRONT WITNESSES AND THE RIGHT TO PRESENT A DEFENSE WHEN DEFENDANT JAMES READY, WHO PLED GUILTY TO UNARMED ROBBERY IN EXCHANGE FOR AN AGREEMENT TO TESTIFY, WAS ALLOWED TO CLAIM A FIFTH AMENDMENT PRIVILEGE FROM TESTIFYING DUE TO UNSPECIFIED REASONS WITHOUT A DETERMINATION THAT PRIVILEGE WAS VALID AND RELATED TO THE ISSUES IN THE CASE.

ISSUE IV:

IS RESENTENCING REQUIRED WHERE APPELLANT'S SENTENCE RANGE WAS INCREASED BASED UPON FACTS THAT WERE NOT FOUND BY A JURY OR PROVED BEYOND A REAONABLE DOUBT.

(g) Did you seek further review by a higher state court? Yes No

If yes, answer the following:

(1) Name of court: Michigan Supreme Court

(2) Docket or case number (if you know): 151540 AND 157873

(3) Result: Reversed, in part, the Judgment of the Court of Appeals and remand to the Trial Court to determine whether it would have imposed a materially different sentence. Otherwise, affirmed the conviction in all other respects.

(4) Date of result (if you know):

December 22, 2015

October 02, 2018

(5) Citation to the case (if you know):

498 Mich. 944

503 Mich. 875

(6) Grounds raised:

ISSUE I:

MUST APPELLANTS CARRYING A CONCEALED WEAPON, FELON IN POSSESSION AND FELONY FIREARM CONVICTIONS BE REVERSED WHERE THE PROSECUTION FAILED TO PRESENT SUFFICIENT EVIDENCE TO PROVE THOSE CHARGES BEYOND A REASONABLE DOUBT

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ISSUE III:

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ISSUE IV:

IS RESENTENCING REQUIRED WHERE APPELLANT'S SENTENCE RANGE WAS INCREASED BASED UPON FACTS THAT WERE NOT FOUND BY A JURY OR PROVED BEYOND A REAONABLE DOUBT.

(h) Did you file a petition for certiorari in the United States Supreme Court?

Yes No

If yes, answer the following: **Not Applicable**

- (1) Docket or case number (if you know): **Not Applicable**
- (2) Result: **Not Applicable**
- (3) Date of result (if you know): **Not Applicable**
- (4) Citation to the case (if you know): **Not Applicable**

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications or motions for relief from judgment pursuant to Subchapter 6.500 of the Michigan Court Rules concerning this judgment of conviction in any state court? Yes No

11. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court: **Not Applicable**
- (2) Docket or case number (if you know): **Not Applicable**
- (3) Date of result (if you know): **Not Applicable**
- (4) Nature of the proceeding: **Not Applicable**
- (5) Grounds raised: **Not Applicable**
- (6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes No
- (7) Result: **Not Applicable**
- (8) Date of result (if you know): **Not Applicable**
- (b) If you filed any second petition, application, or motion, give the same information: **Not Applicable**
 - (1) Name of court: **Not Applicable**
 - (2) Docket or case number (if you know): **Not Applicable**
 - (3) Date of filing (if you know): **Not Applicable**
 - (4) Nature of the proceeding: **Not Applicable**
 - (5) Grounds raised: **Not Applicable**
 - (6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes No
 - (7) Result: **Not Applicable**

(8) Date of result (if you know): Not Applicable

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: Not Applicable

(2) Docket or case number (if you know): Not Applicable

(3) Date of filing (if you know): Not Applicable

(4) Nature of the proceeding: Not Applicable

(5) Grounds raised: Not Applicable

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes No

(7) Result: Not Applicable

(8) Date of result (if you know): Not Applicable

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: Yes No

(2) Second petition: Yes No

(3) Third petition: Yes No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not: Not Applicable

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE:

MUST APPELLANTS CARRYING A CONCEALED WEAPON, FELON IN POSSESSION AND FELONY FIREARM CONVICTIONS BE REVERSED WHERE THE PROSECUTION FAILED TO PRESENT SUFFICIENT EVIDENCE TO PROVE THOSE CHARGES BEYOND A REASONABLE DOUBT

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): **The decision in this case has;**

- (1) **resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or**
- (2) **resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.**

(b) If you did not exhaust your state remedies on Ground One, explain why:

(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) Post-Conviction Proceedings: **Not Applicable**

(1) Did you raise this issue in a motion for relief from judgment pursuant to Subchapter 6.500 of the

Michigan Court Rules?

Not Applicable

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: **Not Applicable**

Name and location of the court where the motion or petition was filed: **Not Applicable**

Docket or case number (if you know): **Not Applicable**

Date of the court's decision: **Not Applicable**

Result (attach a copy of the court's opinion or order, if available):

- (3) Did you receive a hearing on your motion or petition? **Not Applicable**
- (4) Did you appeal from the denial of your motion or petition? **Not Applicable**
- (5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Not Applicable

(6) If your answer to Question (d)(4) is "Yes," state: **Not Applicable**

Name and location of the court where the appeal was filed: **Not Applicable**

Docket or case number (if you know): **Not Applicable**

Date of the court's decision: **Not Applicable**

Result (attach a copy of the court's opinion or order, if available): **Not Applicable**

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: **Not Applicable**

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One:

Not Applicable

GROUND TWO:

WHETHER THE TRIAL COURT REVERSIBLY ERRED, IN VIOLATION OF APPELLANT'S CONSTITUTIONAL RIGHTS TO DUE PROCESS, CONFRONTATION AND FAIR TRIAL, BY DENYING A MISTRIAL WHERE THE PROSECUTION REMOVED A COMPLAINING WITNESS FROM THEIR ENDORSED WITNESS LIST WITHOUT LEAVE OF THE COURT BUT DISCUSSED THAT WITNESS' ALLEGEDLY INCRIMINATING TESTIMONY IN OPENING STATEMENTS

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): **The decision in this case has;**

(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

(b) If you did not exhaust your state remedies on Ground Two, explain why: **Not Applicable**

(c) Direct Appeal of Ground Two: **Not Applicable**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Not Applicable

(2) If you did not raise this issue in your direct appeal, explain why: **Not Applicable**

(d) Post-Conviction Proceedings: Not Applicable

(1) Did you raise this issue in a motion for relief from judgment pursuant to Subchapter 6.500 of the Michigan Court Rules? Not Applicable

(2) If your answer to Question (d)(1) is "Yes," state: Not Applicable

Type of motion or petition: Not Applicable

Name and location of the court where the motion or petition was filed: Not Applicable

Docket or case number (if you know): Not Applicable

Date of the court's decision: Not Applicable

Result (attach a copy of the court's opinion or order, if available): Not Applicable

(3) Did you receive a hearing on your motion or petition? Not Applicable

Not Applicable

(4) Did you appeal from the denial of your motion or petition?

Not Applicable

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Not Applicable

(6) If your answer to Question (d)(4) is "Yes," state: Not Applicable

Name and location of the court where the appeal was filed: Not Applicable

Docket or case number (if you know): Not Applicable

Date of the court's decision: Not Applicable

Result (attach a copy of the court's opinion or order, if available): Not Applicable

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: Not Applicable

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two:

Not Applicable

GROUND THREE:

WAS APPELLANT DENIED A FAIR TRIAL, THE RIGHT TO CONFRONT
WITNESSES AND THE RIGHT TO PRESENT A DEFENSE WHEN DEFENDANT
JAMES READY, WHO PLED GUILTY TO UNARMED ROBBERY IN EXCHANGE

FOR AN AGREEMENT TO TESTIFY, WAS ALLOWED TO CLAIM A FIFTH AMENDMENT PRIVILEGE FROM TESTIFYING DUE TO UNSPECIFIED REASONS WITHOUT A DETERMINATION THAT PRIVILEGE WAS VALID AND RELATED TO THE ISSUES IN THE CASE.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): **The decision in this case has;**

- (1) **resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or**
- (2) **resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.**

(b) If you did not exhaust your state remedies on Ground Three, explain why: **Not Applicable**

(c) Direct Appeal of Ground Three: **Not Applicable**

- (1) If you appealed from the judgment of conviction, did you raise this issue? **Not Applicable**
- (2) If you did not raise this issue in your direct appeal, explain why: **Not Applicable**

(d) Post-Conviction Proceedings: **Not Applicable**

(1) Did you raise this issue in a motion for relief from judgment pursuant to Subchapter 6.500 of the Michigan Court Rules? **Not Applicable**

- (2) If your answer to Question (d)(1) is "Yes," state: **Not Applicable**

Type of motion or petition: **Not Applicable**

Name and location of the court where the motion or petition was filed: **Not Applicable**

Docket or case number (if you know): **Not Applicable**

Date of the court's decision: **Not Applicable**

Result (attach a copy of the court's opinion or order, if available): **Not Applicable**

(3) Did you receive a hearing on your motion or petition?

Not Applicable

(4) Did you appeal from the denial of your motion or petition?

Not Applicable

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Not Applicable

(6) If your answer to Question (d)(4) is "Yes," state: **Not Applicable**

Name and location of the court where the appeal was filed: **Not Applicable**

Docket or case number (if you know): **Not Applicable**

Date of the court's decision: **Not Applicable**

Result (attach a copy of the court's opinion or order, if available): **Not Applicable**

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: **Not Applicable**

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three:

Not Applicable

GROUND FOUR:

**IS RESENTENCING REQUIRED WHERE APPELLANT'S SENTENCE RANGE WAS
INCREASED BASED UPON FACTS THAT WERE NOT FOUND BY A JURY OR
PROVED BEYOND A REASONABLE DOUBT.**

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): **The decision in this case has;**

(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

(b) If you did not exhaust your state remedies on Ground Four, explain why: **Not Applicable**

(c) Direct Appeal of Ground Four: **Not Applicable**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Not Applicable

(2) If you did not raise this issue in your direct appeal, explain why: **Not Applicable**

(d) Post-Conviction Proceedings: **Not Applicable**

(1) Did you raise this issue in a motion for relief from judgment pursuant to Subchapter 6.500 of the Michigan Court Rules? **Not Applicable**

(2) If your answer to Question (d)(1) is "Yes," state: Not Applicable

Type of motion or petition: Not Applicable

Name and location of the court where the motion or petition was filed: Not Applicable

Docket or case number (if you know): Not Applicable

Date of the court's decision: Not Applicable

Result (attach a copy of the court's opinion or order, if available): Not Applicable

(3) Did you receive a hearing on your motion or petition? Not Applicable

(4) Did you appeal from the denial of your motion or petition? Not Applicable

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Not Applicable

(6) If your answer to Question (d)(4) is "Yes," state: Not Applicable

Name and location of the court where the appeal was filed: Not Applicable

Docket or case number (if you know): Not Applicable

Date of the court's decision: Not Applicable

Result (attach a copy of the court's opinion or order, if available): Not Applicable

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: Not Applicable

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four:

Not Applicable

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: Not Applicable

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: Not Applicable

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

(15). Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing:

(b) At arraignment and plea:

(c) At trial:

(d) At sentencing:

(e) On appeal:

(f) In any post-conviction proceeding:

(g) On appeal from any ruling against you in a post-conviction proceeding:

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: Not Applicable

(b) Give the date the other sentence was imposed: Not Applicable

(c) Give the length of the other sentences: Not Applicable

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes No

RELIEF REQUESTED

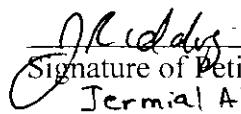
Therefore, petitioner asks that the Court grant the following relief (State reasons) or any other relief to which petitioner may be entitled.

Signature of attorney (if any)

Address

Telephone number

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on 10/28/19 (Month, date, year). Executed (signed) on 10/28/19 / (date).

 Jermial A. Redding #659495
Signature of Petitioner - [Inmate's Name]
Inmate A#: Redding #659495

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

UNITED STATES COURT DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Jermial Ali Redding,

Petitioner,

Case No. 17-cv-24140

vs.

Hon. _____

Connie Horton, Warden

Respondent.

PROOF OF SERVICE

The undersigned affirms that on October 28, 2019, he mailed, via first class mail, one copy of the following document checked below:

- Petition for writ of habeas corpus 28 U.S.C. § 2254
- Brief in support of same
- Proof of service
- Attachments and/or Exhibits
- \$5.00 filing fee
- Application to proceed without prepayment of fees
- Briefs and/or decisions from the lower courts
- Additional grounds
- Other:

TO: **Dana Nessel**, Michigan Department of Attorney General (Attorney for Respondent)
Habeas Corpus Division P.O. Box 30212
Lansing, Michigan 48909

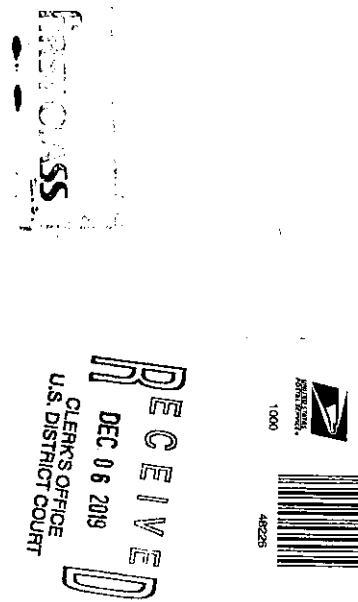
I declare that the above statements are true to the best of my knowledge, information and belief.

Jermial Ali Redding
[Inmate's Name] Jermial Ali Redding #659495
Petitioner in Pro se

Terminal A-Padding #659-495
CHIPPENNA Correctional FAC.
4269 West M-80
Kincheloe, MI 49724

7

124-19
U.S. POSTAGE PAID
FROM FONY
RECEIVED
DEC 06 2019
AMOUNT
\$1.75
R205M146853-06



United States District Court
EASTERN DISTRICT OF MICHIGAN
THEODORE LEVIN U.S. COURTHOUSE
231 W. LAFAYETTE BLVD. 5th FL
DETROIT, MI 48226

RECEIVED
DEC 06 2019
U.S. DISTRICT COURT
CLERK'S OFFICE
DETROIT, MI 48226

CIVIL COVER SHEET FOR PRISONER CASES

Case No. 19-13599	Judge: Linda V. Parker	Magistrate Judge: David R. Grand
Name of 1 st Listed Plaintiff/Petitioner: Jermial Ali Redding	Name of 1 st Listed Defendant/Respondent: Connie Horton	
Inmate Number: 659495	Additional Information:	
Plaintiff/Petitioner's Attorney and Address Information:		
Correctional Facility: Chippewa Correctional Facility 4269 W. M-80 Kincheloe, MI 49784 CHIPPEWA COUNTY		

BASIS OF JURISDICTION

2 U.S. Government Defendant
 3 Federal Question

ORIGIN

1 Original Proceeding
 5 Transferred from Another District Court
 Other:

NATURE OF SUIT

530 Habeas Corpus
 540 Mandamus
 550 Civil Rights
 555 Prison Conditions

FEE STATUS

IFP *In Forma Pauperis*
 PD Paid

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

Yes No

➤ If yes, give the following information:

Court: _____

Case No: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

Yes No

➤ If yes, give the following information:

Court: _____

Case No: _____

Judge: _____